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8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 BOARD OF TRUSTEES OF THE
NORTHERN CALIFORNIA SHEET METAL
11 WORKERS HEALTH CARE PLAN, et al.

12 Plaintiffs,

13 v.

14 LIBERTY DUCT, LLC,

15 Defendant.

Case No.: C13-1288 KAW

**PLAINTIFFS' REQUEST TO CONTINUE
CASE MANAGEMENT CONFERENCE;
~~[PROPOSED]~~ ORDER THEREON**

Date: October 8, 2013

Time: 1:30 p.m.

Ctrm: 4, 3rd Floor, Oakland Courthouse

Judge: Honorable Kandis A. Westmore

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17 Plaintiffs herein respectfully request that the Case Management Conference, currently on
18 calendar for October 8, 2013, be continued for approximately 90 days. Good cause exists for the
19 continuance, as follows:

20 1. As the Court's records will reflect, this action was filed on March 21, 2013. The
21 parties executed a Judgment Pursuant to Stipulation (Dkt. #5) providing for a payment plan for
22 Defendant to satisfy the amounts owed to Plaintiffs, which was filed with the Court with a
23 Proposed Order (Dkt. #6) on March 26, 2013.

24 2. The undersigned substituted as counsel on April 4, 2013 (Dkt. #8). The Court
25 denied entry of the Judgment Pursuant to Stipulation, as employer was not represented by counsel.
26 The Court issued an Order (Dkt. #9) directing Defendant to retain counsel and re-file the
27 Stipulation for consideration, or default judgment may be entered.

28 3. Defendant thereafter submitted payment in full of all amounts due to Plaintiffs,

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PLAINTIFFS' REQUEST TO CONTINUE CMC; ~~[PROPOSED]~~ ORDER THEREON

Case No.: C13-1288 KAW

1 except for liquidated damages, and requested that the Plaintiff Trustees waive the liquidated
2 damages. The request for waiver is pending.

3 4. Before Plaintiffs can dismiss this matter it is imperative that Plaintiffs have the
4 opportunity to ensure that all contributions due by Defendant have been properly reported and
5 paid. Thus, Plaintiffs have decided to exercise their rights under the Collective Bargaining
6 Agreement to conduct and audit of Defendant's payroll records.

7 5. An audit has been requested, but Defendant has yet to comply.

8 6. The Court continued the previous Case Management Conference, scheduled for
9 July 2, 2013, to allow time for the audit to be completed and the parties to discuss payment and/or
10 waiver of liquidated damages. Since then, Defendant has refused to comply with the audit, and has
11 advised the Plaintiff Trust Funds that their records are inaccessible. Plaintiffs have therefore made
12 a claim on Defendant's Union Wage and Welfare Bond for the amounts owed for liquidated
13 damages and interest, and are awaiting response from the surety. In the meantime, Plaintiffs are
14 evaluating their options to further pursue audit compliance by Defendant.

15 7. Accordingly, Plaintiffs respectfully request that the Case Management Conference,
16 currently scheduled for October 8, 2013, be continued for 90 days to allow time for the audit to be
17 further pursued and completed and for the surety to respond to Plaintiffs' bond claim.

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8. There are no issues that need to be addressed by the parties at a Case Management Conference. In the interest of conserving costs, as well as the Court's time and resources, Plaintiffs respectfully request that the Court continue the currently scheduled Case Management Conference.

I declare under penalty of perjury that I am the attorney for the Plaintiffs in the above entitled action, and that the foregoing is true of my own knowledge.

Executed this 1st day of October 2013, at San Francisco, California.

**SALTZMAN & JOHNSON
LAW CORPORATION**

By: /S/
Michele R. Stafford
Attorneys for Plaintiffs

IT IS SO ORDERED.

The currently set Case Management Conference is hereby continued to Jan. 14, 2014 at 1:30 p.m., ~~and all previously set deadlines and dates related to this case are continued accordingly.~~

Date: October 3, 2013

Kandis Westmore
THE HONORABLE KANDIS A. WESTMORE

Proof of Service

I, the undersigned, declare:

1. I am a citizen of the United States and am employed in the County of San Francisco, State of California. My business address is 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

2. I am over the age of eighteen and not a party to this action.

3. On **October 1, 2013**, I served the following document(s):

**PLAINTIFFS' REQUEST TO CONTINUE CASE MANAGEMENT CONFERENCE;
[PROPOSED] ORDER THEREON**

on the interested parties in said action by enclosing a true and exact copy of each document in a sealed envelope and placing the envelope for collection and First Class mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

4. The envelopes were addressed and mailed as follows:

Paul Wulfenstein
Liberty Duct, LLC
4031 Industrial Center Drive #705
North Las Vegas, NV 89030

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on **October 1, 2013**, at San Francisco, California.

/S/

Elise Thurman
Paralegal